



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 10, 1998

Mr. Ryan Tredway
Staff Attorney
Legal and Compliance
Texas Department of Insurance
333 Guadalupe Street
Austin, Texas 78714-9104

OR98-2661

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 119612.

The Department of Insurance (the "department") received a request for the annual statements for International Security and Casualty Company and all information concerning American Bonding. You contend that some of the requested information concerning American Bonding Company is excepted from required public disclosure by sections 552.101, 552.111, and 552.112 of the Government Code. You indicate that some of the information about American Bonding has been released, specifically the order issued by the Arizona Department of Insurance. Because you have not submitted any information relating to the requested annual statements, we presume that any such responsive information has been released. We have considered the exceptions you claim for the submitted documents at issue.

You claim that much of the requested information concerning American Bonding Company is excepted from disclosure by section 552.112 of the Government Code. You have marked the portions of the documents that you claim are excepted. Section 552.112 excepts from public disclosure

information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

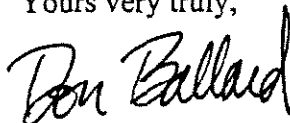
Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). Open Records Decision Nos. 392 at 3 (1983), 158 at 5-6 (1977). You

explain that the documents include specific information regarding the conditions and operations of American Bonding Company. You also indicate that the documents reflect information relating to a financial review or examination of the company. We find, therefore, that the information you have marked may be withheld under section 552.112 of the Government Code.¹

As for the four remaining documents, you claim that they are protected from disclosure by section 552.111 of the Government Code. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111, however, does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 at 4-5 (1993). While most of the information on the four documents you have marked pertain to the department's policy functions, some of the information contained in these documents is purely factual. We have marked the information that may be withheld under 552.111. The remaining portions of the information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 119612

¹Because we are able to make a determination under section 552.112, we do not address whether the information must also be withheld under article 1.15, section 9 of the Insurance Code.

Enclosures: Marked documents

cc: Barbara D. Carney
COKINOS, BOSIEN & YOUNG
1300 Liberty Tower
2919 Allen parkway
Houston, Texas 77019
(w/o enclosures)